

THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE

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AND

THE HON'BLE SRI JUSTICE R.SUBHASH REDDY

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WRIT PETITION No.21272 OF 1998

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Between:

T.D.S. Kumar Petitioner.

AND

Government of Andhra Pradesh, rep. by the
Secretary, Home (General-A) Department,
Secretariat, Hyderabad & others. ...Respondents.

ORAL ORDER: (per Hon'ble Sri Bilal Nazki, the Acting Chief Justice)

In the writ petition filed in public interest, G.O.Ms.No.152, Home (General-A) Department, dated 15-6-1998 passed by the first respondent has been challenged. By this order, the Government issued no objection certificate in favour of respondent No.3 for establishment of a multiplex theatre in Visakhapatnam.

The authority who had to issue no objection certificate was the Joint Collector. The application of respondent No.3 for grant of no objection certificate was rejected on the following grounds.

1. There is no adequate front open space for the proposed Multiplex Theatre Complex as required under para 3(1) (a) of Appendix-I of A.P.C. (R) Rules, 1970.
2. There is no adequate open space in any two sides of the proposed Multiplex Theatre Complex as required under para 3(1)(b) of Appendix-I of A.P. C (Reg.) Rules, 1970.
3. The applicant himself agreed that sufficient open space is not available and requested for exemption of the relevant provisions of A.P.C. (Reg.) Rules, 1970.
4. There is no sufficient parking place for the proposed Multiplex Theatres Complex as required under para 3(1) (c) of Appendix-I of the A.P.C. (Reg.) Rules, 1970.
5. The proposed site was already included in the licensed premises of Daspalla Chitralaya 70 M.M. Theatre and the place in which the Multiplex Theatres Complex as proposed to be constructed was covered by Septic Tank and Lower Class Booking windows of the existing Theatre etc.
6. The vehicular traffic in the vicinity of the existing Theatre is heavy and in case any new Theatres are allowed, it will aggravate the congestion of traffic jam on the road and it is against public safety and interest.
7. The site proposed for construction of Multiplex Theatres is 12.27 metres x 35.05 metres only. The said land is not sufficient to have a suitable cinema building thereon as required under para 1(i) of Appendix-I of A.P.C. (Reg.) Rules, 1970.

Respondent No.3 filed an appeal before the Government. The Government allowed the appeal and directed grant of no objection certificate on certain conditions which are mentioned in the order. But the Government did not at all deal with the reasons given by the Joint Collector while rejecting the application for grant of no objection certificate. He has specifically given seven reasons and nothing is stated about these reasons in the appeal. Therefore, in our view, the order cannot sustain. We set aside the impugned order and remit the matter back to the Government for passing appropriate orders in the appeal. While disposing of the appeal, the Government shall deal with all the reasons given by the Joint Collector while rejecting the application of respondent No.3. Since the matter is pending for a long time, the Government may dispose of the matter within two months from the date of receipt of a copy of this order.

The writ petition is accordingly allowed. No costs.

(BILAL NAZKI, ACJ)

20th September 2005.

(R.SUBHASH REDDY, J.)

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